

The meeting of the **Committee on City Property** was held on Tuesday April 23m 2019, in the Memorial Middle School Library, 615 Rollstone St, Fitchburg, MA and was called to order by Anthony Zarella (Chair) at 6:33pm.

Committee Councilors Present: Zarrella (Chair), Beauchemin, Green, Squailia, (Fleming absent)

Others Present (*as recognized by clerk*): Martha LaLancette, Lynn St Germaine, Janice Kennefick-Perez, Councilor Kushmerek, Tom Skwierawski

*Recording: Councilor Sam Squailia*

**Public Forum:**

*No public forum*

*6:35pm*

- **062-19** Councilor Amy Green, on behalf of Martha LaLancette, 389 South Street, to request that the City of Fitchburg turn Colburn Street into a public way.
  - Representing at front table: Martha LaLancette, Lynn St Germaine, Councilor Amy Green  
Councilor Green notes petition made on behalf of resident.
  - Colburn Street is directly across from South St Elementary, and has one house address on it, while two other houses have their driveways off of Colburn St.
  - Councilor Zarrella reads a letter from Asst City Engineer Gary Bevilacqua, and noted that the Fitchburg Planning Board voted against this proposal.
  - Solicitor Pusateri speaking on behalf--- believes this is very much a ‘public way’, notes that the police use the street for traffic monitoring, and SSE parents use the street for drop off and pickup, and all the surrounding streets. Believes there is a way to get this done....that we have overlooked Granite for example in other developments.
  - Zarrella: In your opinion, would it be possible for the city to develop this without any special act derogating from the city code?  
Pusateri: I’m going to defer to Mr Belivaqua that we are going to need the (DPW) Commissioner to accept it. But I don’t think they have considered all the points, then when an engineered drawing is prepared, then we take a look at this proposal again. The cost of the money of the taking, the appraisal, can be handled by a ‘donation’ these folks who are the owners of this strip of land; including Ms Hardy who owns in the back, she would have the right to pass and repass and both of “these” folks likely own up to the centerline of this way. Assuming all of those things are donated to the city, then it would be up to the city to say accepting this would require us to have some paving done there, and regular cleaning of the drains there.
  - Councilor Beauchemin speaking about a similar petition before us a few weeks ago at Eastlin Way, for ‘the same exact reason’, noting the Fire Department and the Police Department both go through the road including residents. He notes if we accept this as is, this will open up “Pandora’s Box”; that all these private streets will have to be accepted. This is a private way; but I believe the city plows it and fixes the potholes...
  - Martha LaLancette & Lynn St Germaine speaking to Councilor Beauchemin: On our street? No, I’ve been there for 24 years and it has never been plowed once by a city truck, they never plow it, they never sand it...never been fixed.
  - Councilor Squailia also questions about Eastlin Way, they had the same argument that the Fire and Police use it as a public way but it is \*not\* a public way. It was recommended by the DPW that we do not accept these streets until they are brought up to standard or we are provided proof

that they are up to standard. So we gave Eastlin Way leave to withdraw. So is the argument here that this street is somehow different than Eastlin Way?

- Solicitor Pusateri: No I don't disagree with what you are saying, but I don't think they were aware of the amount of engineering that would have to happen in order for the city to even considered accepting the street, but the only difference here is this street and Ellis Street (and I am very familiar with that neighborhood) have been directed to be used by the school parents for picking up and dropping off of the kids at SSE, in fact there was a newspaper article 8 years article where it was front page news. In this way, I think it is a little bit different because I think of that additional school pick up and drop off use, but the other thing is, if they get their engineering in order, then I at least think they would be a candidate for consideration.
- Squailia: That was the push with DPW; that the process to get your street approved, is to get an engineering report of the existing status of the streets, whether it meets city standards, then from there, the DPW can access it. The DPW does not do the engineering work themselves.
- Solicitor Pusateri: Yes, if they get the engineering done, and it looks like it complies, then they can reapply. Notes there is a backlog of acceptance of public ways in the law department and the DPW, and we have talked about trying to make a full assessment of finding all those streets and trying to figure it out, sifting through the ones that actually have engineering.
- Squailia: Are you recommending we give this leave to Withdraw until we see an engineering report? SP: You could do a leave to withdraw, and not carry a matter over on your agenda, or keep it on the agenda so we don't lose track
- Zarrella: It sounds to me, unlike the prior street that was considered, this one is used by the city and by people in use of city property, not solely for the purpose of getting from point A to point B, but for the direct benefit of city functions, such as the school or police, that is a notional distinction that could be made.
- Green: Notes there is one legal resident on the street, and the 2 residents in attendance have their driveways on Colburn St. Notes that she believes the issue with the removal of snow is because it ends up on the one and only resident's property, so if there are future deed issues or landmarks, it should be noted for snow removal, a better solution if it is not allowed to be on the one and only resident's property. Question: What is going to be the suggestion to the petitioners? Do they get an engineered study?
- Solicitor Pusateri: Yes, there are a number of engineering firms that can do this study or design plan and check the current road conditions compared with the required city standards.
- Councilor Beauchemin: Notes he is going to make a motion to give leave to withdraw, notes that the street may not meet the city requirements.
- M. LaLancette, notes that it is the people that try to beat the car line to get their children that park on their street.
- Councilor Squailia: I agree with Councilor Beauchemin, that according to city standards it does not meet the standard, but if you get an engineered report as they demand of all these situations, then we can look at it then, so giving leave to withdraw is probably the best way to move this forward.....but did you say that the school department does not use this street officially for school drop off? So this is not something that the school department requested? This is just something that parents use unofficially?
- M. LaLancette, confirmed the school department did not officially direct parents to use Colburn St.
- Squailia: My last question is, they don't plow the street or fix the potholes? Have you ever asked them and they specifically say 'no we don't plow that', because if there is an address on Colburn street, I would think they should and would plow.

- M. LaLancette notes that she has called the DPW and has not gotten satisfaction.
- Solicitor Pusateri notes they would not plow it until it is a city street
- Squailia: because the DPW does plow and fix the potholes of private ways in the city, on a regular basis. I will look more into this.
- Zarrella notes that before we take a vote on this, for the sake of the petitioners, leave to withdraw is not a rejection per se, it means ‘come back later’, and noted that because it is a private way right now, it is my understanding that you would be absolutely within your rights to demand that other people up to and including the city stop using it unless it is taken as a city street. As long as it is private, it is private.
- Councilor Green notes a brand-new street sign “Colburn St”.
- **Motion by Councilor Beauchemin to give Leave to Withdraw. Councilor Squailia Second. 4-0 Unanimous.**

*6:59pm*

- **074-19** Councilor Amy Green, on behalf of resident Janice Kennefick-Perez, 11 Washington St, to petition that the easement placed on 11 Washington St be removed subjecting it to the side yard sales program & deem it as surplus property.
  - Councilor Green: notes this was brought up in talking to Ms Cervantes about the process of the side yard program during a NICE committee about this property, and it makes sense for Ms Perez to remove the easement and use the property, it is a small parcel of property. She is a good resident, she takes care of the property, I am confident that this is one we will not have to worry about, and it would be my recommendation that we authorize to sell this piece of property back to her for \$300 which is the equivalent amount it would cost if it went to side yard sales program.
  - Zarrella: So the scenario as it currently stands, there is an easement benefitting who?
  - Perez: No one at this point.
  - Pusateri: The backyard of 11 Washington St abuts the backyard of 40 Nashua St, they share a common property line, and back in 1992 it was deemed 40 Nashua St an extended backyard to use for children to play, and that required a 300ft easement into 11 Washington St. 40 Nashua St, the folks that were there no longer reside there, and the property went into tax taking. So the easement was an easement appurtenant with 40 Nashua St, so now that the city owns 40 Nashua St, they own the easement. The constituent would like to buy that easement back. It was sold for \$100 in 1992 to 40 Nashua St. The Chief Procurement officer suggested a straight forward sale, because of the de minimis property interest, and we discussed that we came to a fair value, \$100 in 1992 is about \$300 in today’s money. So we recommend the committee to make a recommendation to sell the 300ft easement held by 40 Nashua St to 11 Washington St and that will expunge the easement.
  - Zarrella notes we should amend the petition to reflect it is not side yard sales.
  - Squailia: Asks what is happening with 40 Nashua St, Ms Perez notes she would be interested in purchasing the property. Notes no objection to this petition.
  - **Motion to Amend by Councilor Green, Squailia Second, 4-0 Unanimous.**
  - **Amended petition:** Councilor Amy Green, on behalf of resident Janice Kennefick-Perez, 11 Washington St, to petition that the easement owned by 40 Nashua St be sold to 11 Washington St by the city for the sum of \$300.
  - **Motion by Councilor Green to accept as proposed, Squailia Second. 4-0 Unanimous.**

*7:10pm*

- **119-19** Ordered That: The Executive Director of Planning and Community Development has requested that the City exercise its power of eminent domain for the Twin City Rail Trail Project as outlined in the enclosed Order.
  - Tom Skwiewarski, Community development Director: notes that the parcel has been approved by finance and council for the funding. Across the street from 1<sup>st</sup> and Railroad Park (Decaria park). We need this as a launching off point for the bridge that will head over the Nashua river ending at the MBTA station. It will be phase II of the Rail Trail.
  - This is a friendly eminent domain taking, Pan-Am railways is 100% on board with us here, this is a necessary step to get them the just compensation they require.
  - Squailia: Asks about the name-change? Pusateri notes that there is an issue with a subsidiary corporation of Boston Maine Corp and Pan-Am, so the documents have been adjusted to reflect the additional name of Boston Maine Corp.
  - S Pusateri also notes there is a full legal description of the property included.
  - Green notes the critical importance of this for the Rail Trail, so she is a yea.
  - Squailia: how large is the property? TS: 23,000sf approx., and he shares a plan of the approx. design and extents of the property.
  - **Motion by Councilor Beauchemin to accept as proposed, Squailia Second. 4-0 Unanimous.**

Meeting adjourned 7:25pm

Minutes prepared by Councilor Squailia, Clerk, City Property Committee. Submitted 4/30/19.



# CITY OF FITCHBURG

Filed in the City Clerk's Office:

## NOTICE OF PUBLIC MEETING

### CITY PROPERTY COMMITTEE

#### REVISED AGENDA

**MEETING DATE:**

Tuesday, April 23, 2019

**MEETING TIME:**

**IMMEDIATELY FOLLOWING THE  
FINANCE COMMITTEE WHICH BEGINS  
AT 6:00 PM.**

**MEETING PLACE:**

MEMORIAL MIDDLE SCHOOL

Name of building (if applicable)

Library

Address

615 Rollstone Street

City

Fitchburg, MA 01420

**AGENDA ITEMS:**

- 062-19. Councilor Amy Green, on behalf of Martha Lalancette, 389 South Street, to request that the City of Fitchburg turn Colburn Street into a public way.
- 074-19. Councilor Amy Green, on behalf of resident Janice Kennefick-Perez, 11 Washington Street, to petition that the easement placed on 11 Washington Street be removed subjecting it to the side yard sales program & deem it as surplus property.
- 119-19. ORDERED THAT: The Executive Director of Planning and Community Development has requested that the City exercise its power of eminent domain for the Twin City Rail Trail Project as outlined in the enclosed Order.

Per Order:

Anthony Zarrella, Chair, City Property Committee

By:

Anna M. Farrell  
City Clerk

2019 APR 17 PM 1:40  
FITCHBURG CITY CLERK

*\*Please note: Massachusetts Open Meeting Law requires that all topics that the Chair reasonably anticipates must be listed and that the list of topics must be sufficiently specific to reasonably inform the public of the issues to be discussed at the meeting.*

000062

No. \_\_\_\_\_ - 2019

## REPORT

The Committee on

City Property Committee, Planning  
Board, Public Works Committee

to which was referred this petition would recom-  
mend that the petition be granted, be given leave  
to withdraw.

In City Council

Report Read and Accepted

Clerk

## PETITION

of

Councillor Amy Green,

on behalf of Marth Lalancette, 389 South St.,  
to request that the City of Fitchburg  
turn Colburn Street into a public Way..

In City Council

March 5, 2019

Referred to Committee on

City Property Committee, Planning  
Board, Public Works Committee

Anna M. Farrell

Clerk

TO THE HONORABLE CITY COUNCIL OF THE CITY OF FITCHBURG

Ladies and Gentlemen:

The undersigned Petition your Honorable Body to

Request that the City of Fitchburg  
turn Colburn Street into a  
public way.

Request made by Martha Lalancette,  
389 South St.

Amy Green  
Ward 1 Councilor

FITCHBURG CITY CLERK  
2019 FEB 19 PM 1:47

A TRUE COPY ATTEST.



City Clerk



**CITY OF FITCHBURG  
PLANNING BOARD**

166 BOULDER DRIVE  
FITCHBURG, MASSACHUSETTS 01420

(978) 829-1891  
PHONE

(978) 829-1965  
FAX

FITCHBURG CITY CLERK

2019 MAR 19 AM 8:34

**DATE:** March 15, 2019

**TO:** City Council  
City Clerk

**FROM:** Paula Caron, Chair *pc/med*  
Fitchburg Planning Board

**SUBJECT:** Petition #62-2019  
Turn Colburn St. into a Public Way

At its March 12, 2019 meeting the Fitchburg Planning Board reviewed the above-noted petition and agreed to recommend against it for the same reasons stated in the Asst. City Engineer's letter dated March 6, 2019 (attached).



City of  
**Fitchburg**



Department of  
**Public Works**

**COMMISSIONER**

301 Broad Street  
978-829-1910  
978-345-9687 FAX

**STREETS & PARKS**

301 Broad Street  
978-829-1900  
978-345-9687 FAX

**WASTEWATER**

Princeton Road  
978-345-9622  
978-345-9623 FAX

**SEWER COLLECTION**

301 Broad Street  
978-829-1905  
978-345-9687 FAX

**WATER**

1200 Rindge Road  
978-345-9616  
978-345-9555 FAX

**ENGINEERING**

301 Broad Street  
978-829-1917  
978-345-9687 FAX

**CEMETERIES**

115 Mount Elam Road  
978-345-9578  
978-345-9686 FAX

March 6, 2019

Mike O'Hara  
Principal Planner  
City of Fitchburg

Re: Petition 62-2019- Colburn St

Dear Mr. O'Hara:

Street Acceptance as a Public Way is governed by the City of Fitchburg Code Chapter 157-12 (attached) and is approved by the Commissioner of Public Works.

To summarize the obvious applicable contents of 157-12 please see below.

There is no plan and profile supplied or on record showing approved location, width, and profile/grades for this street.

The street construction must be in accordance with City standards. Since this street was constructed many years ago-the Commissioner cannot confirm that it has been constructed free of all unacceptable soils-clay, loamy materials, rocks, stumps & organic materials thus supplying a suitable road base material. Pavement type and thickness is also unknown.

There is no street bounding delineating this area of land in the field. City code requires granite road bounds to be set at all angles, curves and corners of such street and all intersecting streets.

There is no legal description supplied or on file for this street. The area of this "street lay out" is privately owned and must be donated to the City of Fitchburg or "taken" by the City of Fitchburg by legal means. This requires legal fees and may require damages paid to owners.

It is with these short comings that DPW Engineering cannot recommend the City acceptance of Colburn Street to the Commissioner of Public Works.

Sincerely,

Gary Bevilacqua  
Assistant City Engineer, DPW

Cc: Anna Farrell, City Clerk  
Lenny Laakso, Commissioner of Public Works

City of Fitchburg, Massachusetts 01420  
[www.fitchburgma.gov](http://www.fitchburgma.gov)

# City of Fitchburg-City Code

## Chapter 157 Streets and Sidewalks

### § 157-12 Requirements for establishment of streets over private lands.

Any petition for laying out a street which shall in its effect involve the acceptance by the City of a private street constructed or projected over private lands shall be accompanied either by a certificate from the Commissioner that such street has actually been constructed in compliance with the following requirements and specifications or by an agreement of the petitioners that they will bear the expense of such construction and completion:

**A.** Such street shall be constructed and completed in accordance with a plan and profile thereof filed with and approved by the Commissioner, showing its proposed location, width and grades and the location and grades of all connecting streets, and drawn to such scale as the Commissioner may require and to his or her satisfaction.

[Amended 6-3-2014 by Ord. No. 100-2014]

**B.** Such street shall be constructed in a manner reasonably safe for travel and with a roadway of such width as the Commissioner may require and of such cross section as he or she may prescribe.

[Amended 6-3-2014 by Ord. No. 100-2014]

**C.** The whole area of such street shall be cleared of stumps, rocks, roots and other superfluous or objectionable material and of all trees not intended for preservation, and trees intended for preservation shall be properly protected by boxes or fences against injury.

**D.** All clay, loam and loamy material shall be removed from the limits of the roadway and sidewalks, if required by the Commissioner, to such depth as he or she may approve and shall be deposited outside the limits of such street.

[Amended 6-3-2014 by Ord. No. 100-2014]

**E.** All work in excavation and embankment shall be brought accurately to such a subgrade as the Commissioner may require, and all side slopes thereof within such street or on adjoining land shall be at such ratio as he or she may furnish.

[Amended 6-3-2014 by Ord. No. 100-2014]

**F.** All corners of intersecting streets shall be rounded, and granite bounds shall be set at all angles, curves and corners of such street and those made with such connecting streets, according to the direction and approval of the Commissioner.

City of  
**Fitchburg**



Department of  
**Public Works**

2019 MAR -7 AM 8:59  
FITCHBURG CITY CLERK

**COMMISSIONER**

301 Broad Street  
978-829-1910  
978-345-9687 FAX

**STREETS & PARKS**

301 Broad Street  
978-829-1900  
978-345-9687 FAX

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978-345-9578  
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March 6, 2019

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Principal Planner  
City of Fitchburg

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To summarize the obvious applicable contents of 157-12 please see below.

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The street construction must be in accordance with City standards. Since this street was constructed many years ago-the Commissioner cannot confirm that it has been constructed free of all unacceptable soils-clay, loamy materials, rocks, stumps & organic materials thus supplying a suitable road base material. Pavement type and thickness is also unknown.

There is no street bounding delineating this area of land in the field. City code requires granite road bounds to be set at all angles, curves and corners of such street and all intersecting streets.

There is no legal description supplied or on file for this street. The area of this "street lay out" is privately owned and must be donated to the City of Fitchburg or "taken" by the City of Fitchburg by legal means. This requires legal fees and may require damages paid to owners.

It is with these short comings that DPW Engineering cannot recommend the City acceptance of Colburn Street to the Commissioner of Public Works.

Sincerely,

Gary Bevilacqua  
Assistant City Engineer, DPW

Cc: Anna Farrell, City Clerk  
Lenny Laakso, Commissioner of Public Works

# City of Fitchburg-City Code

## Chapter 157 Streets and Sidewalks

FITCHBURG CITY CL  
2019 MAR -7 AM 8:

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Any petition for laying out a street which shall in its effect involve the acceptance by the City of a private street constructed or projected over private lands shall be accompanied either by a certificate from the Commissioner that such street has actually been constructed in compliance with the following requirements and specifications or by an agreement of the petitioners that they will bear the expense of such construction and completion:

**A.** Such street shall be constructed and completed in accordance with a plan and profile thereof filed with and approved by the Commissioner, showing its proposed location, width and grades and the location and grades of all connecting streets, and drawn to such scale as the Commissioner may require and to his or her satisfaction.

[Amended 6-3-2014 by Ord. No. 100-2014]

**B.** Such street shall be constructed in a manner reasonably safe for travel and with a roadway of such width as the Commissioner may require and of such cross section as he or she may prescribe.

[Amended 6-3-2014 by Ord. No. 100-2014]

**C.** The whole area of such street shall be cleared of stumps, rocks, roots and other superfluous or objectionable material and of all trees not intended for preservation, and trees intended for preservation shall be properly protected by boxes or fences against injury.

**D.** All clay, loam and loamy material shall be removed from the limits of the roadway and sidewalks, if required by the Commissioner, to such depth as he or she may approve and shall be deposited outside the limits of such street.

[Amended 6-3-2014 by Ord. No. 100-2014]

**E.** All work in excavation and embankment shall be brought accurately to such a subgrade as the Commissioner may require, and all side slopes thereof within such street or on adjoining land shall be at such ratio as he or she may furnish.

[Amended 6-3-2014 by Ord. No. 100-2014]

**F.** All corners of intersecting streets shall be rounded, and granite bounds shall be set at all angles, curves and corners of such street and those made with such connecting streets, according to the direction and approval of the Commissioner.

000074 - 2019  
No

## REPORT

## PETITION

The Committee on

of

City Property Committee

Councilor Amy Green, on behalf of

to which was referred this petition would recommend that the petition be granted, be given leave to withdraw.

Janice Kenneflick-Perez, 11 Washington St., to petition that the easement placed on 11 Washington St. be removed subjecting it to the side yard sales program and deem it as surplus property.

In City Council

In City Council

March 19, 2019

Referred to Committee on

City Property Committee by vote of 10 in favor and 1 opposed (Squallia). 11 members present. Board consists of 11 members.

Report Read and Accepted

Anna M. Farrell

Clerk

Clerk

TO THE HONORABLE CITY COUNCIL OF THE CITY OF FITCHBURG

Ladies and Gentlemen:

The undersigned Petition your Honorable Body to

petition that the easment placed  
on 11 Washington St. be removed  
subjecting it to the side yard sales  
program & deem it as surplus  
property.

Amy Green  
Ward 1 Councilor

On behalf of Janice Kennefick - Perey  
11 Washington St.

2019 MAR - 6 PM 4:13

FITCHBURG CITY CLERK

PRESENTED TO THE MAYOR

No **000119** - 2019

For approval \_\_\_\_\_

\_\_\_\_\_  
City Clerk

MAYOR'S OFFICE

Fitchburg, Mass. \_\_\_\_\_

APPROVED

\_\_\_\_\_  
Mayor

ORDER

That the Exe. Dir. of Planning and Comm. Dev. has requested that the City exercise its power of eminent domain for the Twin City Rail Trail Project as outlined in the enclosed ~~Order~~.

In City Council,

April 16, 2019

Order referred to the City Property Committee by vote of 10 in favor and 1 opposed (Squalitta).

Anna M. Farrell

Clerk

# City of Fitchburg

FITCHBURG CITY CLERK

City of Fitchburg  
City Council

2019 APR 11 AM 10:44

In City Council, \_\_\_\_\_

ORDERED:-- That RE: Eminent Domain for the Twin City Rail Trail Project

WHEREAS The Executive Director of Planning and Community Development has requested that the City exercise its power of eminent domain;

WHEREAS under the provisions of M.G.L. c. 43 § 30 and M.G.L. c. 79 § 1 et. al. the City Council of the City of Fitchburg is authorized to acquire property for the purposes of improving rights of way and economic development in the City of Fitchburg; and

WHEREAS the City Council of the City of Fitchburg, duly established under the law has decreed by a vote duly passed and recorded that public necessity and convenience require the taking by the City of Fitchburg by eminent domain for the purposes of improving rights of way the health and safety for the residence of the City of Fitchburg and providing for economic development in the City of Fitchburg, of a certain interests in parcel of land in Fitchburg, Massachusetts including all trees upon said land, as hereinafter described; and

WHEREAS appraisals of the aforesaid parcels of land to be taken have been heretofore made and filed with the taking Authority; and

WHEREAS an appropriation for such taking by eminent domain was made by the City Council of the City of Fitchburg on February 19, 2019, by a vote in excess of two-thirds thereof as required by M.G.L. c. 40, § 14, and Section 30 of the City Charter, the appropriation having been carried forward in the account and now being available for the purpose of the present taking; and

WHEREAS the property owner has waived a hearing in accordance with the provisions of M.G.L. c. 79, § 5B by the request for the City to exercise the power of eminent domain;

NOW THEREFORE:

BE IT ORDERED that the City of Fitchburg by the City Council under the authority vested in said Council by virtue of M.G.L. c. 79 and all and every other power enabling it, does

Property Address: 0 Railroad Street, Fitchburg MA



hereby take by eminent domain, certain property, in fee, for the public to have a permanent right of way and access to the same permanently, being the property is identified as City parcel number, Map 69, lot 29/0, comprising 23,720 square feet of land located in Fitchburg, Massachusetts, including the trees upon said land, and bounded and described as follows as set forth on attachment "A":

Together with the right of ingress and egress over the subject lands adjacent to the taken easements to the extent reasonably necessary in order to exercise the rights taken.

The trees upon the land above are included in the taking. No structures are included in this taking.

No betterments are to be assessed for this improvement.

Worcester, S.S.

City of Fitchburg  
City Council

In RE: Order of Eminent Domain for the Twin City Rail Trail 0 Railroad.

Upon a motion made and duly seconded, it was voted by \_\_ Yeas and \_\_ Nays that public necessity and convenience require the taking of easements and certain interests in real property pursuant to M.G.L. c. 79 for legitimate public purpose by the City of Fitchburg by and through its City Council for land located in the City of Fitchburg, Massachusetts for the purposes of improving rights and economic development of way in the City of Fitchburg, including the removal of trees upon said land, all of which are fully described in the description of land taken in the order of taking hereto attached and made part of this record as if fully set forth herein.

**Award of Damages**

And it is further ORDERED that the following persons whose property has been taken or who are otherwise entitled to damages on account of such taking be awarded, and they hereby are awarded, as the damages sustained by them in the following amounts severally set against their names on the attached record of the Vote.

NAME	ADDRESS	ASSESSOR'S ID.	AWARD OF DAMAGES
------	---------	-------------------	---------------------

Pan Am Southern LLC	0 Railroad St.	69/29	\$35,000.00
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The same to be charged to the DPED- Community Development Expenses Rail-Trail-  
a/k/a Land Purchase Account No: 011 814-585 848.

Order adopted by a yea and nay vote of \_\_ Yeas and \_\_ Nays.

REVISED 4/23/19 SEE ATTACHED

A TRUE COPY

ATTEST \_\_\_\_\_

Clerk of the Fitchburg City Council

I hereby certify that the forgoing is a true copy of an order of Taking adopted by the City Council of the City of Fitchburg on this \_\_\_\_ day of May in the year 2019.

\_\_\_\_\_  
Clerk of the Fitchburg City Council

City of Fitchburg  
City Council

RE: Eminent Domain for the Twin City Rail Trail Project

WHEREAS The Executive Director of Planning and Community Development has requested that the City exercise its power of eminent domain;

WHEREAS under the provisions of M.G.L. c. 43 § 30 and M.G.L. c. 79 § 1 et. al. the City Council of the City of Fitchburg is authorized to acquire property for the purposes of improving rights of way and economic development in the City of Fitchburg; and

WHEREAS the City Council of the City of Fitchburg, duly established under the law has decreed by a vote duly passed and recorded that public necessity and convenience require the taking by the City of Fitchburg by eminent domain for the purposes of improving rights of way the health and safety for the residence of the City of Fitchburg and providing for economic development in the City of Fitchburg, of a certain interests in parcel of land in Fitchburg, Massachusetts including all trees upon said land, as hereinafter described; and

WHEREAS appraisals of the aforesaid parcels of land to be taken have been heretofore made and filed with the taking Authority; and

WHEREAS an appropriation for such taking by eminent domain was made by the City Council of the City of Fitchburg on February 19, 2019, by a vote in excess of two-thirds thereof as required by M.G.L. c. 40, § 14, and Section 30 of the City Charter, the appropriation having been carried forward in the account and now being available for the purpose of the present taking; and

WHEREAS the property owner has waived a hearing in accordance with the provisions of M.G.L. c. 79, § 5B by the request for the City to exercise the power of eminent domain;

NOW THEREFORE:

BE IT ORDERED that the City of Fitchburg by the City Council under the authority vested in said Council by virtue of M.G.L. c. 79 and all and every other power enabling it, does hereby

take by eminent domain, certain property, in fee, for the public to have a permanent right of way and access to the same permanently, being the property is identified as City parcel number, Map 69, lot 29/0, comprising 23,720 square feet of land located in Fitchburg, Massachusetts, including the trees upon said land, and bounded and described as follows as set forth on "Exhibit A":

Together with the right of ingress and egress over the subject lands adjacent to the taken easements to the extent reasonably necessary in order to exercise the rights taken.

The trees upon the land above are included in the taking. No structures are included in this taking.

No betterments are to be assessed for this improvement.

## EXHIBIT A

A certain parcel of land located in Fitchburg and containing twenty-five thousand and fifteen square feet and more particularly bounded as follows:

BEGINNING at a point on the South side of the Nashua River and in the Westerly location line of said Fitchburg Rail Road Company and running Westerly on said River fifty two feet to a passage way ten feet in width by land of one Donnelly.

THENCE, turning and running Southerly on said passage way seventy-six feet to First Street (so called).

THENCE turning and running Easterly on said First Street fourteen feet to the Easterly side of Rail Road Street (so called).

THENCE turning and running Southerly on said Rail Road Street two hundred and seventy-eight feet to land now or formerly of Alvah Crocker.

THENCE turning and running at right angles Easterly on land of said grantor ninety-one and  $\frac{1}{4}$  feet to the Westerly location line of said Fitchburg Rail Road Company.

THENCE running Northerly by a curved line on said location line two hundred and forty-seven  $\frac{75}{100}$  feet to a drill hole in a stone post.

THENCE in a straight line on said Westerly location line one hundred and eleven feet to the point of beginning.

Excepting therefrom that portion of the premises previously conveyed to the City of Fitchburg by deed dated February 14, 1940 and recorded with the Worcester Northern District Registry of Deeds in Book 560, Page 393, and being shown as Parcel No. 2 on plan entitled "Land and Easement Fitchburg, Mass., Boston and Maine Railroad to City of Fitchburg" dated Aug. 1939, recorded with said Deeds in Plan Book 68, Page 1.

\$ 23,000 ¢

Worcester, S.S.

City of Fitchburg  
City Council

In RE: Order of Eminent Domain for the Twin City Rail Trail 0 Railroad.

Upon a motion made and duly seconded, it was voted by\_\_Yeas and\_\_Nays that public necessity and convenience require the taking of easements and certain interests in real property pursuant to M.G.L. c. 79 for legitimate public purpose by the City of Fitchburg by and through its City Council for land located in the City of Fitchburg, Massachusetts for the purposes of improving rights and economic development of way in the City of Fitchburg, including the removal of trees upon said land, all of which are fully described in the description of land taken in the order of taking hereto attached and made part of this record as if fully set forth herein.

**Award of Damages**

And it is further ORDERED that the following persons whose property has been taken or who are otherwise entitled to damages on account of such taking be awarded, and they hereby are awarded, as the damages sustained by them in the following amounts severally set against their names on the attached record of the Vote.

NAME	ADDRESS	ASSESSOR'S ID.	AWARD OF DAMAGES
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Pan Am Southern LLC and/or Boston and Maine Corporation	0 Railroad St.	69-29-0	\$35,000.00
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The same to be charged to the DPED– Community Development Expenses Rail-Trail–  
a/k/a Land Purchase Account No: 011 814-585 848.

Order adopted by a yeas and nays vote of \_\_\_\_ Yeas and \_\_\_\_ Nays.

A TRUE COPY

ATTEST \_\_\_\_\_

Clerk of the Fitchburg City Council

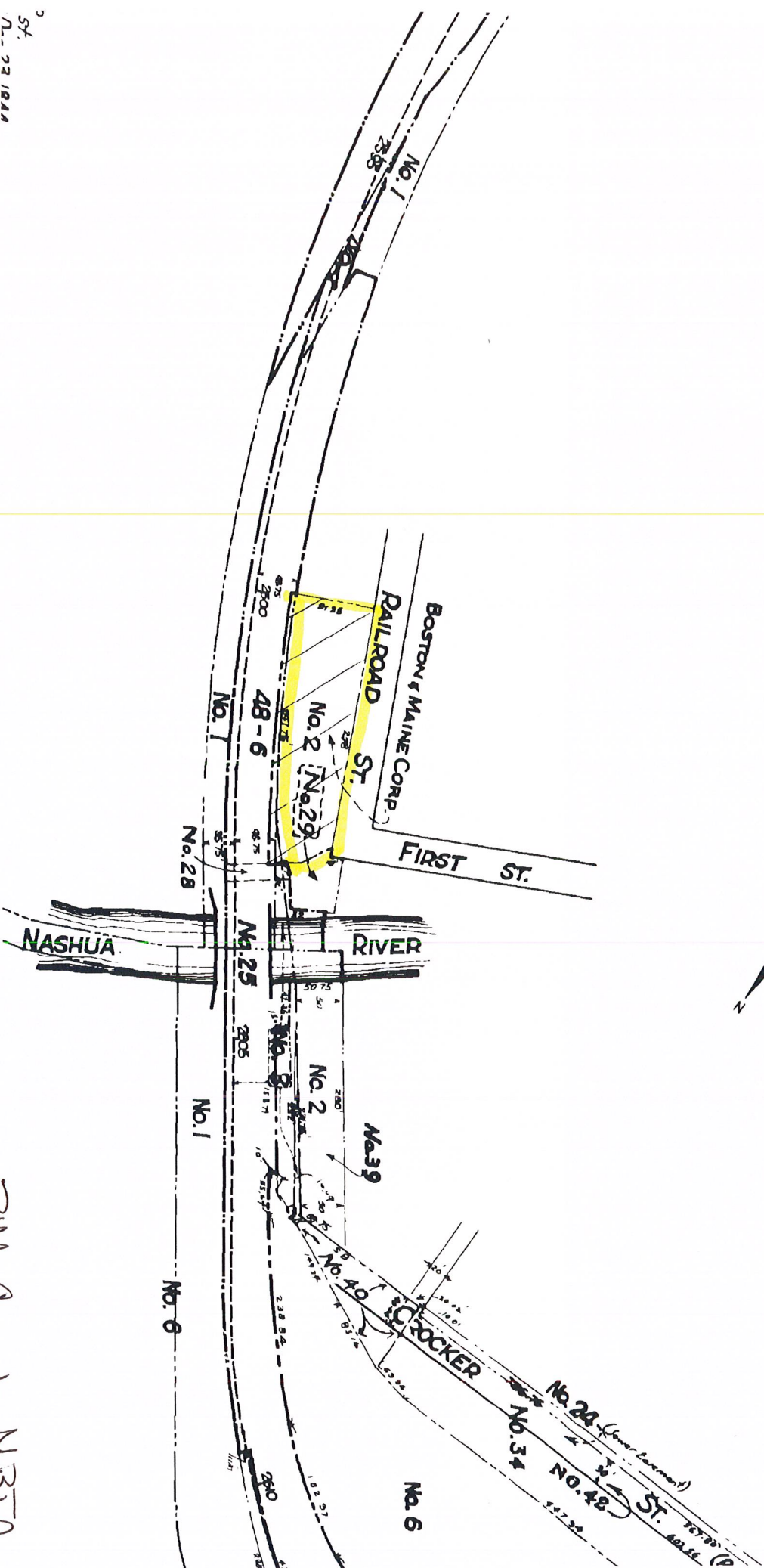
I hereby certify that the foregoing is a true copy of an order of Taking adopted by the City Council of the City of Fitchburg on this \_\_\_\_ day of May in the year 2019.

\_\_\_\_\_

Clerk of the Fitchburg City Council



No. 2. 1/29/1869  
 Alvah Crocker to Fitch. <sup>Wm</sup> Rail. Co.  
 B. 184 P. 92



2  
 st.  
 12-23/1868

Station 258440 to 2619 + 12.44 12/1/1975

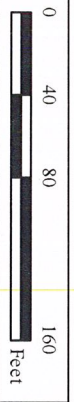
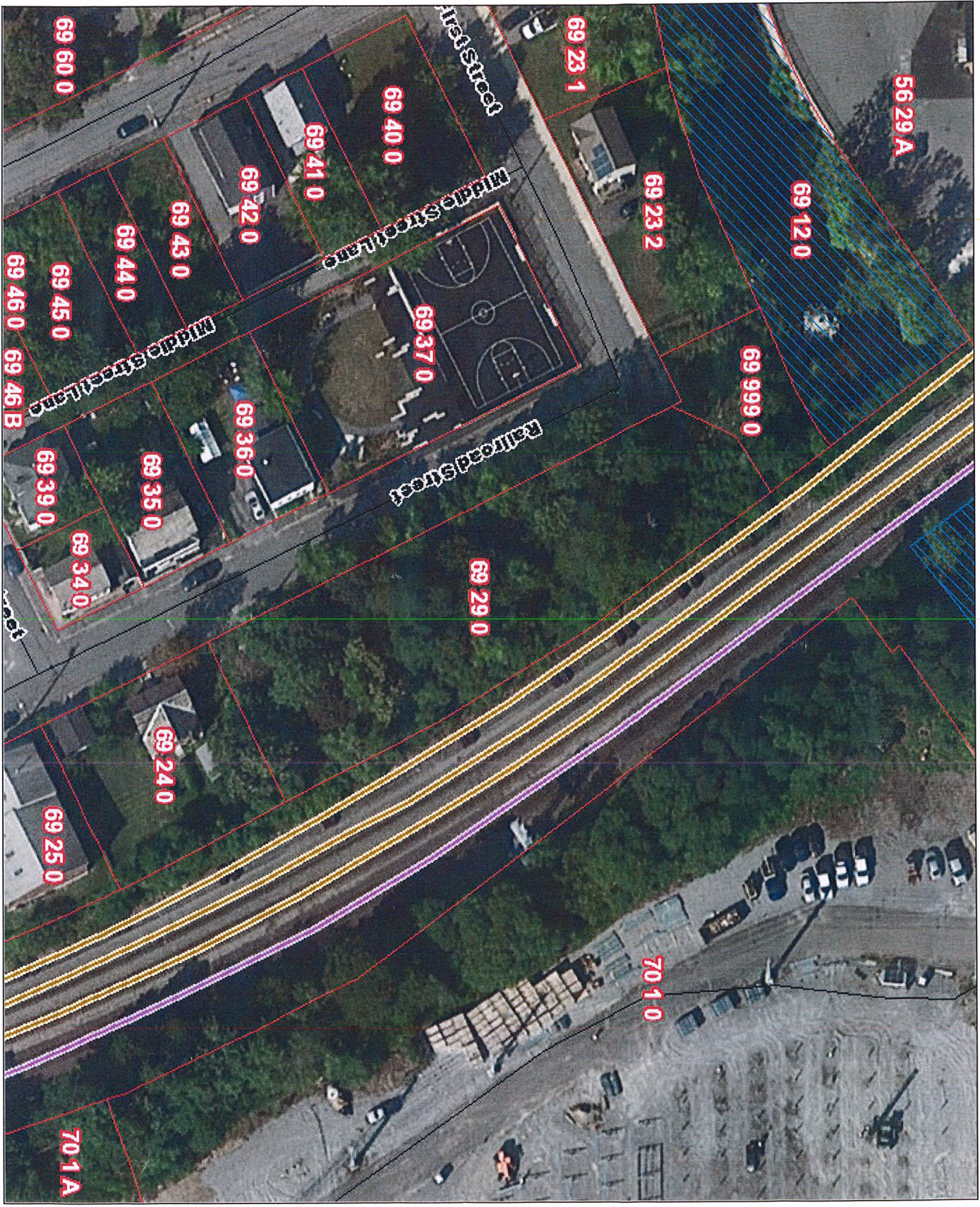
BM Corp to MBTA



# MRMapper WebMap

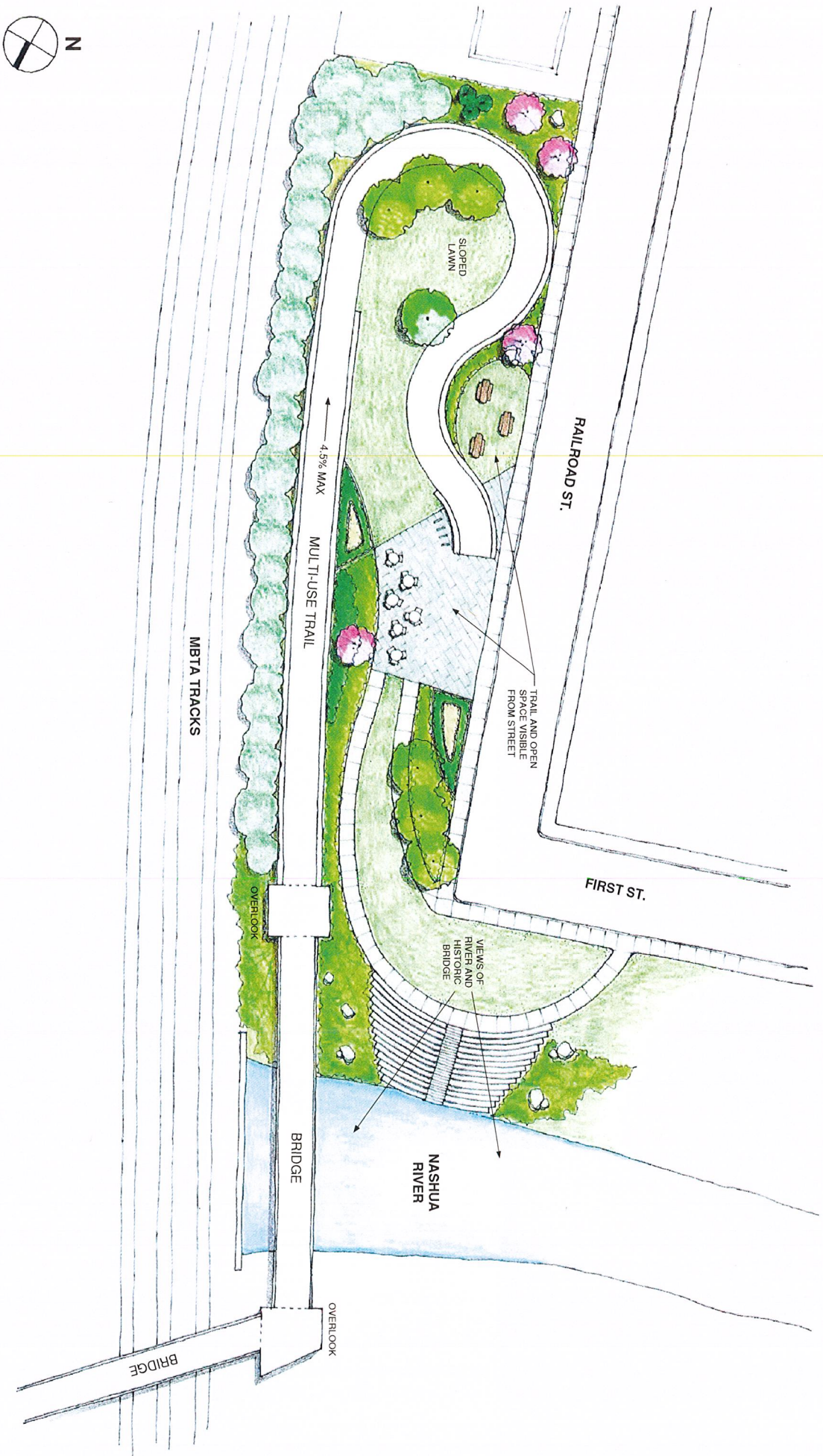


- ☐ Parcel Boundaries
- ☐ Other Legal Features
- ☐ Easement
- ☐ Miscellaneous Features
- ☐ Island
- ☐ Traffic Island
- ☐ Water
- ☐ Wetland
- ☐ MRPC Communities
- ☐ Surrounding Communities
- ☐ MBTA Commuter Rail Stations
- ☐ Active Rail Lines
- ☐ Commuter Rail Line
- ☐ Other Active Rail Lines
- ☐ Interstate Routes
- ☐ Interstate Routes
- ☐ US & State Routes
- ☐ US & State Routes
- ☐ Other Roadways
- ☐ Other Roadways



**DISCLAIMER:** The information depicted on this map is for planning purposes only. All data are representational and are not adequate for boundary definition, regulatory interpretation, or parcel-based analysis.





CITY OF FITCHBURG  
BOSTON, MA  
SCALE: 1" = 30'-0"  
02.06.18

# CONCEPTUAL SITE PLAN 'A'

## FITCHBURG BRIDGE TRAILHEAD - TWIN CITIES RAIL TRAIL

BROWN, RICHARDSON + ROWE  
LANDSCAPE ARCHITECTS AND PLANNERS  
3 POST OFFICE SQUARE  
BOSTON, MA 02110